Conference of the States Parties to the United Nations Convention against Corruption

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Draft report

Addendum

III. Implementation of Conference resolutions 7/5, entitled "Promoting preventive measures against corruption", and 7/6, entitled "Follow-up to the Marrakech declaration on the prevention of corruption", and of the recommendations agreed upon by the Working Group at its meeting held in August 2017

A. Thematic discussion on preventing and managing conflicts of interest (article 7, paragraph 4, of the United Nations Convention against Corruption)

1. The Chair introduced the substantive discussion on the item, in relation to which the secretariat had prepared a background note (CAC/COSP/WG.4/2018/2). The secretariat welcomed the valuable information received from States parties, which formed the basis of the background note.

2. The secretariat stated that, in their submissions, States recognized the importance of properly managing the conflicts between the private interests of the public officials and their duty to act in the public interest and provided examples of the approaches taken to prevent corruption through employing effective conflict of interest management strategies. Many States underlined the need for clear standards of conduct in the form of legislation or codes, as well as the need to enforce those standards and ensure that public officials were aware of their duties and responsibilities. The need for proper disclosure of conflicts of interest that arose was addressed in most submissions.

3. The panellist from Montenegro discussed how the national legislation defined conflicts of interest and described the measures taken by specialized bodies to promote the implementation of the legislation, underlining the broad definition of the officials that were required to comply. It was emphasized that ad hoc disclosure of any conflict of interest was required by the public officials. Restrictions were introduced that prohibited occupying more than one position in the public service, as was a "cooling down" period of two years following the termination of a public function.

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4. The panellist from New Zealand gave a presentation on the country's approach to managing conflicts of interest, the specifics of the island setting and the influence of certain cultural aspects, such as the importance of fairness, trust and social cohesion, and voluntary compliance. He also described administrative and legislative measures taken to promote ethical conduct, including whistle-blower protection, enforcement of conflict of interest rules and training.

5. The panellist from the United States outlined the variety of institutional, administrative and legislative measures taken to address conflicts of interest in public administration as well as the approaches taken to address specific conflict of interest risks encountered by different categories of public officials. He emphasized the need for a comprehensive approach that included the enforcement of written standards, asset and interest disclosure, oversight, training and counselling.

6. The panellist from OECD gave a presentation on the approach of the organization to managing conflicts of interest and underlined the importance of public trust for building effective institutions, of clear institutional arrangements for managing conflict of interest, of accountability and of fostering a culture of integrity in the public administration.

7. During the ensuing discussion, many speakers recognized that conflicts of interest could lead to corruption and underlined that addressing conflicts of interest at all levels of government was critical for the success of the corruption prevention efforts. Speakers reported how their countries had approached the issue of the prevention and management of conflicts of interest through legislation, policy and practice. Speakers also highlighted that conflicts of interest were addressed through different means, including constitutional provisions, laws, regulations and codes of conduct.

8. Codes of conduct in particular were identified by a number of speakers as an effective measure in preventing and managing conflicts of interest, in accordance with article 8 of the Convention. Some speakers emphasized the need to enforce the provisions of codes of conduct, while others highlighted the usefulness of codes in promoting integrity and ethical values.

9. Several speakers underlined the importance of the effective implementation of legislation on conflicts of interest. In this regard, some speakers highlighted how strengthening the protection of reporting persons could promote compliance.

10. Many speakers referred to measures that have been adopted to mitigate risks associated with conflicts of interest, including restrictions on outside activities, secondary employment and financial or commercial interests. Mandatory recusals were often required in situations where a conflict of interest had been identified. In addition, speakers emphasized the need to regulate the receipt and declaration of gifts and favours, including those received during official meetings or abroad.

11. Speakers noted that specific regulations were required for different categories of public officials. Several speakers spoke of additional measures adopted in relation to public positions considered especially vulnerable to corruption, such as those related to public procurement, law enforcement, financial control or customs. One speaker underlined the importance of addressing conflicts of interest for the highest level public officials.

12. Speakers highlighted the importance of preventing and managing conflicts of interest among judges and prosecutors. In that regard, measures such as extended declarations of assets and interests for the officials and their family members, strict regimes of incompatibilities as well as mandatory recusal were identified as effective.

13. Speakers emphasized the need to extend conflict of interest provisions to the managers and staff of State-owned enterprises. The conflict of interest of diplomats was noted to be an important, though sometimes underestimated, issue.

14. Many speakers recounted how their legislation required "cooling off" periods for public officials upon leaving the public service to prevent the misuse of inside information or other conflicts of interest.

15. A speaker underlined that the mere existence of a conflict of interest was not a crime. Measures promoting the proactive disclosure and management of conflicts of interest were considered crucial to ensuring the integrity of the public service.

16. Several speakers emphasized the need to raise awareness and provide ethics guidelines and advice, as well as training to public officials. In particular, speakers described how information and communications technologies were used to provide training and ethics advice to public officials. Efforts were also made to raise the awareness of the general public and promote public participation.

17. Speakers underlined the importance of the enforcement of conflict of interest rules, as well as imposing administrative or criminal sanctions for breaches of those rules. In that regard, several speakers referred to the need for effective asset and interest declaration systems.

18. Several speakers recognized the importance of exchanging experience and good practices among States parties and called on the Secretariat to continue to provide technical assistance and to organize training events in this regard, subject to availability of resources.

19. Two speakers noted that the G20 was in the process of adopting "High-Level Principles for Preventing and Managing 'Conflict of Interest' in the Public Sector" later this year.

20. A representative of the Regional Anti-Corruption Initiative recounted the efforts of the organization to promote integrity and build national capacity to address the risks associated with conflicts of interest and corruption in South East Europe.